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Attorney for Plaintiff
DONNA MATHEWS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONNA MATHEWS,
Plaintiff,

vs.

PAN AMERICAN LIFE INSURANCE
COMPANY; and DOE 1 through Doe 20,
Inclusive,

Defendants.

No. C 07-02757 SBA

PLAINTIFF'S EVIDENTIARY
OBJECTIONS IN OPPOSITION TO
MOTION FOR SUMMARY
JUDGMENT

Date: June 10, 2008
Time: 1:00 p.m.
Ctvm: 3

COMES NOW Plaintiff, DONNA MATHEWS, and offers the following objections to
evidence submitted by Defendant in connection with its Motion for Summary Judgment.

1. Proffered Statement:

"According to Dr. Alexander's APS, plaintiff would recover sufficiently to perform
the duties of her regular job on March 15, 2006."

Jones Decl., Para 5; 2:12-15.

Objection:

Hearsay. Violates the Best Evidence Rule. The document Mr. Jones refers to is
before the Court, and does not say what Mr. Jones claims it says. Dr. Alexander notes that

1 Plaintiff "may need surgical intervention," thereby indicating that his return-to-work prognosis was
2 no more than a rough estimate.

3 **2. Proffered Statement:**

4 Exhibit I to the Jones Declaration.

5 **Objection:**

6 The document submitted is incomplete. The last page stops in mid-sentence. The
7 complete document is found at Depo Exhibit 17. The missing page contains a reference to
8 Plaintiff's potential need for vocational rehabilitation.

9 **3. Proffered Statement:**

10 "I also requested a further Independent Medical Examination of Ms. Mathews, which
11 was ordered. I also requested surveillance of Ms. Mathews as part of the investigation of her claim for
12 additional benefits."

13 Jones Decl., Para. 17; 4:22-25.

14 **Objection:**

15 Vague as to time. The declaration proceeds chronologically up to this point, and
16 resumes chronologically afterwards, leaving the false impression that Mr. Jones ordered the
17 Independent Medical Examination and surveillance of Plaintiff in April 2006. In fact, the
18 Independent Medical Examination was scheduled in late September or October 2006, shortly after
19 Ms. Mathews filed a complaint with the California Department of Insurance. Mathews Decl. ¶29.
20 The examination took place in November 2006. Depo Exhibit 36. Mr. Jones set up the
21 surveillance of the Plaintiff and the medical examination at the same time. Jones Depo 257:25-
22 258:15.

23 Dated: May 19, 2008

LAW OFFICE OF MICHAEL E. KINNEY

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25 By: _____
26 Michael E. Kinney
27 Attorney for Plaintiff
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